

## **Key Features of Budget 2016-2017**

## **DIRECT TAX PROPOSALS**

## **A. Rates of Income-tax**

# Rates of Income-Tax

## *Basic Rates*

- The income tax rates remains unchanged for individuals, Hindu Undivided Families, Association of Persons, Body of Individuals, Artificial Juridical Persons, Co-operative Societies, Firms and Local Authorities
- The rates of income-tax in the case of every individual or Hindu undivided family or every association of persons or body of individuals or artificial judicial person during the financial year 2016-17 are as under -

Total Income	Tax Rates
Upto INR 2,50,000	Nil
INR 2,50,001 to INR 5,00,000	10 percent
INR 5,00,001 to INR 10,00,000	20 percent
Above INR 10,00,000	30 percent

# Rates of Income-Tax

## *Basic Rates*

- The income-tax rates for every individual, being resident in India who is of the age of 60 years or more but less than 80 years at any time during the financial year 2016-17 are as under -

Total Income	Tax Rates
Upto INR 3,00,000	Nil
INR 3,00,001 to INR 5,00,000	10 percent
INR 5,00,001 to INR 10,00,000	20 percent
Above INR 10,00,000	30 percent

# Rates of Income-Tax

## *Basic Rates*

- The income-tax rates for every individual, being resident in India who is of the age of 80 years or more at any time during the financial year 2016-17 are as under -

Total Income	Tax Rates
Upto INR 5,00,000	Nil
INR 5,00,001 to INR 10,00,000	20 percent
Above INR 10,00,000	30 percent

# Rates of Income-Tax

## *Corporate Tax Rates*

- The Income-tax rate for the **domestic companies** whose total turnover or gross receipts for the previous year 2014-15 does not exceed **INR 5 Crore** shall be 29% of the total income.
- New manufacturing companies incorporated on or after 1<sup>st</sup> day of March 2016 upon satisfying certain conditions are given an option to pay Income-tax at the rate of 25%. The conditions to be satisfied by the domestic company are
  - Company is solely engaged in business of production of any article or thing.
  - Company has not availed benefit of accelerated and additional depreciation.
  - Company has not claimed any benefit under section 10AA
  - Company has not claimed any benefit under investment allowance and expenditure on scientific research
  - Company has not claimed any deduction under Part-C of Chapter VI-A other than provision of Section 80JJAA
  - Option is to be furnished by company in prescribed manner before due date.
- In all other cases the income tax rate of domestic companies shall be 30% of total income.

# Rates of Income-Tax

## Surcharge

### Individuals, HUF, AOP, BOI and Artificial Juridical Persons

- Amount of income-tax shall be increased by a surcharge at the rate of **15 percent** of such income-tax in case of individuals, Hindu Undivided Families, Association of Persons, Body of individuals and Artificial Juridical Persons having a total income exceeding **INR 1 Crore**.

### Companies

- Surcharge at the rate of **7 percent** shall be levied in case of a domestic company if the total income of the domestic company exceeds **INR 1 Crore** but does not exceed **INR 10 Crores**. The surcharge at the rate of **12 percent** shall be levied if the total income of the domestic company exceeds **INR 10 Crores**.
- In case of companies other than domestic companies, the existing surcharge of **2 percent** shall continue to be levied if the total income exceeds **INR 1 Crore** but does not exceed **INR 10 Crore**. The surcharge at the rate of **5 percent** shall continue to be levied if the total income of the company other than domestic exceeds **INR 10 Crore**



# Rates of Income-Tax

## *Surcharge*

### *Firms, Co-operative societies, Local authorities*

- Amount of income-tax shall be increased by a surcharge at the rate of **12 percent** of such income-tax in case of firms, co-operative society and local authorities having a total income exceeding **INR 1 Crore**.

## *Marginal Relief*

- Marginal relief shall be allowed in all these cases to ensure that the additional amount of income tax payable, including surcharge, on the excess of income over INR 1 Crore / 10 Crores is limited to the amount by which the income is more than INR 1 Crore / 10 Crores.

## *Education Cess*

- In the Financial year 2016-17, “Education cess on income-tax” and “Secondary and Higher Education cess on income-tax” shall be continued to be levied at the rate of **two percent** and **one percent** respectively.

## **B. Additional Resource Mobilisation**

# Dividend and Securities Transaction Tax

## *Change in taxation of income by way of dividend*

- **Amendment** (w.e.f .1<sup>st</sup> April 2017 i.e. AY 2017-18 onwards)
- Individual, Hindu undivided family or a firm who is resident in India receiving dividend in excess of INR 10 lakh per annum shall pay Income-tax at the rate of 10%.

## *Change in rate of Securities Transaction Tax*

- **Amendment** (w.e.f .1<sup>st</sup> June 2016)
- Security transaction tax on sale of option in securities is increased from 0.017 per cent to 0.05 per cent.

# Equalisation Levy

## *Equalisation Levy*

- Every person, being
  - a resident and carrying on business or profession or
  - a non-resident having a permanent establishment in Indiashall deduct the equalisation levy from the amount paid or payable to a non-resident in respect of the specified service at the rate of 6 per cent.
- Specified service” means online advertisement, any provision for digital advertising space or any other facility or service for the purpose of online advertisement and includes any other service as may be notified by the Central Government in this behalf;
- No such levy shall be made
  - if the aggregate amount of consideration for specified services received or receivable by a non-resident does not exceed one lakh rupees in any previous year.
  - If the non-resident providing the specified service has a permanent establishment in India and the specified service is effectively connected with such permanent establishment;
  - where the payment for the specified service by the person resident in India, or the permanent establishment in India is not for the purposes of carrying out business or profession.

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# Equalisation Levy

## *Equalisation Levy*

- Equalisation levy so deducted shall be paid by every assessee to the credit of the Central Government by the seventh day of the month immediately following the said calendar month
- The expenses incurred by the assessee towards specified services chargeable under this Chapter shall not be allowed as deduction in case of failure of the assessee to deduct and deposit the equalisation levy to the credit of Central government before the due date specified in section 139(1).
- It is also provided that where in respect of any such consideration, the equalisation levy has been deducted in any subsequent year or has been deducted during the previous year but paid after the due date specified in section 139(1), such sum shall be allowed as a deduction in computing the income of the previous year in which such levy has been paid;
- This chapter will take effect from the date appointed in the notification to be issued by the Central Government.

## **C . Widening of Tax Base and Anti Abuse Measures**

# Tax Collection at Source

## *Tax collection at source*

- ***Amendment*** (w.e.f. 1<sup>st</sup> June 2016)
- The seller shall collect the tax at the rate of one per cent from purchaser in the following cases
  - Sale of motor vehicles exceeding INR 10 lakhs
  - Sale in cash of goods other than bullion and jewellery exceeding INR 2 lakh.
  - Services paid in cash without deductions of tax at source with a value exceeding INR 2 lakh.
- Tax collection at source in relation to sale of any goods (other than bullion and jewellery) or services shall not apply to certain class of buyers who fulfil such conditions as may be prescribed.

# Buy Back of shares

## *Tax on distributed income to shareholder*

- **Amendment** (w.e.f .1<sup>st</sup> June, 2016)
- The existing provisions of section 115QA of the Act provide for the levy of additional Income-tax @ 20% of the distributed income on account of buy back of unlisted shares by a company.
- In existing provisions the distributed income has been defined to mean the consideration paid by the company on buy back of shares as reduced by the amount which was received by the company for issue of such shares
- Sec 115QA is amended to provide that the provisions of this section shall apply to any buy back of unlisted share undertaken by the company in accordance with the provisions of the law relating to the Companies and not necessarily restricted to section 77A of the Companies Act, 1956.
- Section 115QA is to amended to provide that for the purpose of computing distributed income, the amount received by the Company in respect of the shares being bought back shall be determined in the prescribed manner. The rules would thereafter be framed to provide for manner of determination of the amount in various circumstances including shares being issued under tax neutral reorganisations and in different tranches.



# Charitable institutions

## *Levy of tax where the charitable institution ceases to exist or converts into a non Charitable organization*

- **Amendment** (w.e.f .1<sup>st</sup> June 2016)
- An additional tax shall be levied on accreted income of the trust
  - on conversion of trust or institution into a form not eligible for registration u/s 12 AA or
  - on merger into an entity not having similar objects and registered under section 12AA or
  - on non-distribution of assets on dissolution to any charitable institution registered u/s 12AA
  - or approved under section 10(23C) within a period twelve months from dissolution.
- Accreted income shall be amount of aggregate of total assets as reduced by the liability as on the specified date. The asset and the liability of the charitable organisation which have been transferred to another charitable organisation within specified time will be excluded while calculating accreted income.
- Accreted income shall be taxed at maximum marginal rate. Failure of payment of tax will be subject to interest at the rate of 1 per cent .
- For the purpose of recovery of tax and interest, the principal officer or the trustee and the trust or the institution shall be deemed to be assessee in default and all provisions related to the recovery of taxes shall apply.

## **D. Measures to phase out deductions**

# Measures to phase out deductions

## *Phasing out of deductions and exemptions*

Table 1 : Proposed Phase out plan of incentives (Profit linked Deductions/weighted deduction) available under the Act.

SI No:	Section	Incentive currently available in the Act	Proposed phase out measures/ Amendment
1	10AA- Special provision in respect of newly established units in Special economic zones (SEZ).	Profit linked deductions for units in SEZ for profit derived from export of articles or things or services	No deduction shall be available to units commencing manufacture or production of article or thing or start providing services on or after 1st day April,2020. (from previous year 2020-21 onwards).
2	35AC-Expenditure on eligible projects or schemes.	Deduction for expenditure incurred by way of payment of any sum to a public sector company or a local authority or to an approved association or institution, etc. on certain eligible social development project or a scheme.	No deduction shall be available with effect from 1.4.2017 (i.e from previous year 2017-18 and subsequent years).

# Measures to phase out deductions

Sl No:	Section	Incentive currently available in the Act	Proposed phase out measures/ Amendment
3	35CCD-Expenditure on skill development project.	Weighted deduction of 150 per cent on any expenditure incurred (not being expenditure in the nature of cost of any land or building) on any notified skill development project by a company.	Deduction shall be restricted to 100 per cent from 01.04.2020 (i.e.from previous year 2020-21 onwards)
4	Section 80IA; 80IAB, and 80IB -Deduction in respect of profits derive from a) development, operation and maintenance of an infrastructure facility (80-IA) (b) development of special economic zone (80-IAB) (c) production of mineral oil and natural gas [80-IB(9)]	100 per cent profit linked deductions for specified period on eligible business carried on by industrial undertakings or enterprises referred in section 80IA; 80IAB, and 80IB.	No deduction shall be available if the specified activity commences on or after 1st day April, 2017. (i.e from previous year 2017-18 and subsequent years)

These amendments mentioned in table 1 will take effect from 1st April, 2017 and will, accordingly, apply in relation to the assessment year 2017-18 and subsequent years.

# Measures to phase out deductions

Table 2 : Proposed Phase out plan of incentives (Accelerated Depreciation/Weighted Deduction) available under the Act.

SI No:	Section	Incentive currently available in the Act	Proposed phase out measures/ Amendment
1	32 read with rule 5 of Income-tax Rules, 1962- Accelerated Depreciation .	Accelerated depreciation is provided to certain Industrial sectors in order to give impetus for investment. The depreciation under the Income-tax Act is available up to 100% in respect of certain block of assets	To amend the new Appendix IA read with rule 5 of Income-tax Rules, 1962 to provide that highest rate of depreciation under the Income-tax Act shall be restricted to 40% w.e.f 01.4.2017. (i.e from previous year 2017-18 and subsequent years). The new rate is proposed to be made applicable to all the assets (whether old or new) falling in the relevant block of assets.
2	35(1)(ii)- Expenditure on scientific research.	Weighted deduction from the business income to the extent of 175 per cent of any sum paid to an approved scientific research association which has the object of undertaking scientific research. Similar deduction is also available if a sum is paid to an approved university, college or other institution and if such sum is used for scientific research.	Weighted deduction shall be restricted to 150 per cent from 01.04.2017 to 31.03.2020 (i.e. from previous year 2017-18 to previous year 2019-20) and deduction shall be restricted to 100 per cent from 01.04.2020 (i.e. from previous year 2020-21 onwards).

# Measures to phase out deductions

SI No:	Section	Incentive currently available in the Act	Proposed phase out measures/ Amendment
3	35(1)(ia)- Expenditure on scientific research.	Weighted deduction from the business income to the extent of 125 per cent of any sum paid as contribution to an approved scientific research company.	Deduction shall be restricted to 100 per cent with effect from 01.04.2017 (i.e. from previous year 2017-18 and subsequent years).
4	35(1)(ii)- Expenditure on scientific research.	Weighted deduction from the business income to the extent of 125 per cent of contribution to an approved research association or university or college or other institution to be used for research in social science or statistical research.	Deduction shall be restricted to 100 per cent with effect from 01.04.2017 (i.e. from previous year 2017-18 and subsequent years).
5	35(2AA)- Expenditure on scientific research	Weighted deduction from the business income to the extent of 200 per cent of any sum paid to a National Laboratory or a university or an Indian Institute of Technology or a specified person for the purpose of approved scientific research programme.	Weighted deduction shall be restricted to 150 per cent with effect from 01.04.2017 to 31.03.2020 (i.e. from previous year 2017-18 to previous year 2019-20). Deduction shall be restricted to 100 per cent from 01.04.2020 (i.e. from previous year 2020-21 onwards).

# Measures to phase out deductions

SI No:	Section	Incentive currently available in the Act	Proposed phase out measures/ Amendment
6	35(2AB)- Expenditure on scientific research	Weighted deduction of 200 per cent of the expenditure (not being expenditure in the nature of cost of any land or building) incurred by a company, engaged in the business of bio-technology or in the business of manufacture or production of any article or thing except some items appearing in the negative list specified in Schedule-XI, on scientific research on approved in-house research and development facility.	Weighted deduction shall be restricted to 150 per cent from 01.04.2017 to 31.03.2020 (i.e. from previous year 2017-18 to previous year 2019-20).  Deduction shall be restricted to 100 per cent from 01.04.2020 (i.e. from previous year 2020-21 onwards).
7	35AD- Deduction in respect of specified business.	In case of a cold chain facility, warehousing facility for storage of agricultural produce, an affordable housing project, production of fertiliser and hospital weighted deduction of 150 per cent of capital expenditure (other than expenditure on land, goodwill and financial assets) is allowed.	In case of a cold chain facility, warehousing facility for storage of agricultural produce, hospital, an affordable housing project, production of fertilizer, deduction shall be restricted to 100 per cent of capital expenditure w.e.f. 01.4.2017 (i.e. from previous year 2017-18 onwards).

# Measures to phase out deductions

SI No:	Section	Incentive currently available in the Act	Proposed phase out measures/ Amendment
8	5CCC-Expenditure on notified agricultural extension project.	Weighted deduction of 150 per cent of expenditure incurred on notified agricultural extension project.	Deduction shall be restricted to 100 per cent from 1.4.2017 (i.e from previous year 2017-18 onwards).

These amendments mentioned in table 2 will take effect from 1st April, 2018 and will, accordingly, apply in relation to the assessment year 2018-19 and subsequent years.



## **E . Measures to promote socio-economic growth**

# Measures to promote socio-economic growth

## *Exemption of income of Foreign company from storage and sale of crude oil stored as part of strategic reserves*

- Section 10 of the Act is amended to provide that any income accruing or arising to a foreign company on account of storage of crude oil in a facility in India and sale of crude oil there from to any person resident in India shall not be included in the total income, if –
  - such storage and sale by the foreign company is pursuant to an agreement or an arrangement entered into by the Central Government or approved by the Central Government; and
  - Having regard to the national interest, the foreign company and the agreement or arrangement are notified by the Central Government in this behalf.
- This amendment will take effect ***retrospectively from 1<sup>st</sup> April, 2016*** and will accordingly apply in relation to assessment year 2016-17 and subsequent assessment years.

# Measures to promote socio-economic growth

## *Exemption in respect of certain activity related to diamond trading in "Special Notified Zone".*

- Section 9 is amended to provide that in the case of a foreign company engaged in the business of mining of diamonds, no income shall be deemed to accrue or arise in India to it through or from the activities which are confined to display of uncut and unassorted diamonds in a Special Zone notified by the Central Government in the Official Gazette in this behalf.
- This amendment will take **effect retrospectively from 1st April, 2016** and will accordingly apply in relation to assessment year 2016-17 and subsequent assessment years.

## *Extending the benefit of initial additional depreciation under section 32(1)(ia) for power sector*

- **Amendment** (w.e.f .1<sup>st</sup> April 2017 i.e. AY 2017-18 onwards)
- An assessee engaged in the business of transmission of power shall also be allowed additional depreciation at the rate of 20% of actual cost of new machinery or plant acquired and installed in a previous year.

# Patents

## *Taxation of Income from 'Patents'*

- **Amendment** (w.e.f. 1<sup>st</sup> April 2017 i.e. AY 2017-18 onwards)
- New section 115BBF is inserted to provide that where the total income of the eligible assessee includes any income by way of royalty in respect of a patent developed and registered in India, then such royalty shall be taxable at the rate of ten per cent (plus applicable surcharge and cess) on the gross amount of royalty.
- No expenditure or allowance in respect of such royalty income shall be allowed under the Act.
- For the purpose of this concessional tax regime an eligible assessee means a person resident in India, who is the true and first inventor of the invention and whose name is entered on the patent register as the patentee in accordance with Patents Act, 1970 and includes every such person, being the true and the first inventor of the invention, where more than one person is registered as patentee under Patents Act, 1970 in respect of that patent.

# Start Ups

## *Tax incentives for start-ups*

- **Amendment** (w.e.f. 1<sup>st</sup> April 2017 i.e. AY 2017-18 onwards)
- A deduction is provided of one hundred percent of the profits and gains derived by an eligible start-up from a business involving innovation development, deployment or commercialization of new products, processes or services driven by technology or intellectual property.
- The deduction can be claimed at the option of the assessee for any three consecutive assessment years out of five years beginning from the year in which the eligible start-up is incorporated.
- This option is not applicable
  - To an establishment formed by splitting up, or the reconstruction, of a business already in existence
  - To an establishment not formed by the transfer to a new business of machinery or plant previously used for any purpose.

# Start Ups

## *Tax incentives for start-ups*

- Machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose, if all the following conditions are fulfilled, namely:—
  - Such machinery or plant was not, at any time previous to the date of the installation by the assessee, used in India;
  - Such machinery or plant is imported into India;
  - No deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of the installation of the machinery or plant by the assessee.
- Eligible start-up” means a company engaged in eligible business which fulfils the following conditions, namely:—
  - It is incorporated on or after the 1st day of April, 2016 but before the 1st day of April, 2019;
  - The total turnover of its business does not exceed twenty-five crore rupees in any of the previous years beginning on or after the 1st day of April, 2016 and ending on the 31st day of March, 2021; and
  - It holds a certificate of eligible business from the Inter-Ministerial Board of Certification as notified in the Official Gazette by the Central Government.

# Start ups

## *Tax incentives for persons investing in start-ups*

- **Amendment** (w.e.f. 1<sup>st</sup> April 2017 i.e. AY 2017-18 onwards)
- A new Section 54EE is inserted to provide exemption from capital gains tax if the long term capital gains proceeds are invested by an assessee in units of such specified fund, as may be notified by the Central Government in this behalf, subject to the condition that the amount remains invested for three years. Investment limit: up to Rs. 50 lakh.
- Section 54GB is amended to provide that long term capital gains arising on account of transfer of a residential property shall not be charged to tax if such capital gains are invested in subscription of shares of a company which qualifies to be an eligible start-up subject to the condition that the individual or HUF holds more than fifty per cent shares of the company and such company utilises the amount invested in shares to purchase new asset before due date of filing of return by the investor.
- Section 54GB is amended to provide the expression "new asset" includes computers or computer software in case of technology driven start-ups so certified by the Inter-Ministerial Board of Certification notified by the Central Government in the official Gazette.

# Housing Projects

## *Incentives for Promoting Housing for All*

- **Amendment** (w.e.f .1<sup>st</sup> April 2017 i.e. AY 2017-18 onwards)
- Hundred per cent deduction of the profits of an assessee developing and building affordable housing projects is provided if the following conditions are satisfied
  - The project is approved by the competent authority after the 1st day of June, 2016, but on or before the 31st day of March, 2019, in accordance with such guidelines as may be prescribed
  - The project is completed within a period of **three years from the date of approval**,
  - The project is on a plot of land measuring not less than 1000 sq. metres where the project is within 25 km from the municipal limits of four metros namely Delhi, Mumbai, Chennai & Kolkata and in any other area, it is measuring not less than 2000 sq. metres where the size of the residential unit in the said areas is not more than thirty sq. metres and sixty sq. metres, respectively,
  - where residential unit is allotted to an individual, no such unit shall be allotted to him or any member of his family, etc



# Housing Projects

## *Incentives for Promoting Housing for All*

- **Amendment** (w.e.f .1<sup>st</sup> April 2017 i.e. AY 2017-18 onwards)
- Additional deduction is provided for first-home buyers availing home loans in respect of interest on loan taken for residential house property from any financial institution up to Rs. 50,000
- It applies to a house property of a value less than fifty lakh rupees in respect of which a loan of an amount not exceeding thirty five lakh rupees has been sanctioned during the period from the 1st day of April, 2016 to the 31st day of March, 2017
- The benefit of deduction shall be extended till the repayment of loan continues.
- The deduction under the proposed section is over and above the limit of Rs 2,00,000 provided for a self-occupied property under section 24 of the Act.

# New Employment of new workmen – section 80JJAA

## *Tax incentive for employment generation*

- **Amendment** (w.e.f .1<sup>st</sup> April 2017 i.e. AY 2017-18 onwards)
- The existing provisions of Section 80JJAA provide for a deduction of thirty percent of additional wages paid to new regular workmen in a factory for three years. The provisions apply to the business of manufacture of goods in a factory where 'workmen' are employed for not less than three hundred days in a previous year. Further, benefits are allowed only if there is an increase of at least ten percent in total number of workmen employed on the last day of the preceding year
- Deduction under Section 80JJAA for additional wages shall only be available in respect of an employee whose total emoluments are less than or equal to twenty five thousand rupees per month.
- No deduction shall be allowed in respect of cost incurred on those employees, for whom the entire contribution under Employees' Pension Scheme notified in accordance with Employees' Provident Fund and Miscellaneous Provisions Act, 1952, is paid by the Government.
- Section 80JJAA is amended to relax minimum number of days of employment in a financial from 300 days to 240 days and also the condition of ten per cent increase in number of employees every year is done away with.
- In the first year of a new business, thirty percent of all emoluments paid or payable to the employees employed during the previous year shall be allowed as deduction

## **F . Relief and Welfare Measures**

# Sovereign Gold Bond Scheme and Rupee Denominated Bonds

## *Provision for Tax benefits to Sovereign Gold Bond Scheme, 2015 and Rupee Denominated Bonds*

- **Sovereign Gold Bond Scheme, 2015**
  - ***Amendment*** (w.e.f .1<sup>st</sup> April 2017 i.e. AY 2017-18 onwards)
  - Section 47 is amended so as to provide that any redemption of Sovereign Gold Bond under the Scheme, by an individual shall not be treated as transfer and therefore shall be exempt from tax on capital gains.
  - Section 48 is also amended so as to provide indexation benefits to long terms capital gains arising on transfer of Sovereign Gold Bond to all cases of assesseees.
- **Rupee Denominated Bond**
  - ***Amendment*** (w.e.f .1<sup>st</sup> April 2017 i.e. AY 2017-18 onwards)
  - Section 48 of the Act is amended so as to provide that the capital gains, arising in case of appreciation of rupee between the date of issue and the date of redemption against the foreign currency in which the investment is made shall be exempt from tax on capital gains.

# Relief and Welfare Measures

## *Consolidation of 'plans' within a 'scheme' of mutual fund*

- **Amendment** (w.e.f .1<sup>st</sup> April 2017 i.e. AY 2017-18 onwards)
- Section 47 is amended to provide that any transfer by a unit holder of a capital asset, being a unit or units, held by him in the consolidating plan of a mutual fund scheme, made in consideration of the allotment to him of a capital asset, being a unit or units, in the consolidated plan of that scheme of the mutual fund shall not be considered transfer for capital gain tax purposes and thereby shall not be chargeable to tax.

## *Rationalization of limit of deduction allowable in respect of rents paid under Section 80GG*

- **Amendment** (w.e.f .1<sup>st</sup> April 2017 i.e. AY 2017-18 onwards)
- An individual can claim deduction under section 80GG if he is paying house rent but not receiving any HRA from the employer. The least of following is allowed as deduction:
  - Rent paid in excess of 10% of total income;
  - INR 2,000 per month; or
  - 25% of total income.
- The existing limit of INR 2,000 per month is proposed to be increase to INR 5,000 per month.

# Relief and Welfare Measures

## *Tax Treatment of Gold Monetization Scheme, 2015*

- Clause (14) of section 2 is amended so as to exclude Deposit Certificates issued under Gold Monetisation Scheme, 2015 notified by the Central Government, from the definition of capital asset and thereby to exempt it from capital gains tax.
- Clause (15) of section 10 is also amended so as to provide that the interest on Deposit Certificates issued under the Scheme, shall be exempt from income-tax.
- These amendments are proposed to be made effective **retrospectively from the 1st day of April, 2016** and shall accordingly apply in relation to assessment year 2016-17 and subsequent years.

## *Rationalization of section 56 of the Income-tax Act*

- **Amendment** (w.e.f. 1<sup>st</sup> April 2017 i.e. AY 2017-18 onwards)
- The Act is amended so as to provide that any shares received by an individual or HUF as a consequence of demerger or amalgamation of a company shall not attract (the provisions of clause (vii) of sub-section (2) of section 56) the chargeability of income from other sources.

# Relief and Welfare Measures

## *Rationalization of limit of rebate in income-tax allowable under Section 87A*

- **Amendment** (w.e.f .1<sup>st</sup> April 2017 i.e. AY 2017-18 onwards)
- Section 87A provide for a rebate of an amount equal to 100 per cent of Income-tax or an amount of INR 5,000.00 whichever is less, from the amount of income-tax to an individual resident individual in India whose total income does not exceed INR 5,00,000.00.
- maximum amount of rebate available under this provision was increased from existing INR 2,000 to INR 5,000.

## *Increase in time period for acquisition or construction of self-occupied house property for claiming deduction of interest*

- **Amendment** (w.e.f .1<sup>st</sup> April 2017 i.e. AY 2017-18 onwards)
- Second proviso of clause (b) of section 24 is amended to provide that the deduction under the said proviso on account of interest paid on capital borrowed for acquisition or construction of a self-occupied house property shall be available if the acquisition or construction is completed within five years from the end of the financial year in which capital was borrowed.

# Unrealised rent and arrears of rent

## *Simplification and rationalisation of provisions relating to taxation of unrealised rent and arrears of rent*

- **Amendment** (w.e.f. 1<sup>st</sup> April 2017 i.e. AY 2017-18 onwards)
- Sections 25A, 25AA and 25B are merged under a single new section 25A .
- It is provided that the amount of rent received in arrears or the amount of unrealised rent realised subsequently by an assessee shall be charged to income-tax in the financial year in which such rent is received or realised, whether the assessee is the owner of the property or not in that financial year.
- Thirty per cent of the arrears of rent or the unrealised rent realised subsequently by the assessee shall be allowed as deduction.



## **G . Ease of doing Business/dispute resolution**

# Place of Effective Management (“POEM”)

*Enabling provision for implementation of various provisions of the Act in case of a foreign company held to be resident in India.*

- In order to provide clarity in respect of implementation of point of effective management (POEM) it is proposed to defer the POEM based residence test by one year.
- ***Determination of residence based on POEM shall be applicable from 01 April 2017***
- Transition mechanism will be provided for a company which is incorporated outside India and has not earlier been assessed to tax in India. The Central Government is proposed to be empowered to notify exception, modification and adaptation subject to which, the provisions of the Act relating to computation of income, treatment of unabsorbed depreciation, setoff or carry forward and setoff of losses, special provision relating to avoidance of tax and the collection and recovery of tax shall apply in a case where a foreign company is said to be resident in India due to its POEM being in India for the first time and the said company has never been resident in India before.
- These transition provisions would also cover any subsequent previous year up to the date of determination of POEM in an assessment proceeding. However, once the transition is complete, and then normal provision of the Act would apply.
- Notification for certain conditions shall be issued including procedural conditions subject to which these adaptations shall apply can be provided for and in case of failure to comply with the conditions, the benefit of such notification would not be available to the foreign company.

# Presumptive taxation

## *Introduction of Presumptive taxation scheme for persons having income from profession*

- 44ADA is inserted in the Act to provide for estimating the income of an assessee who is engaged in any profession referred to in section 44AA (1) such as legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or any other profession as is notified by the Board in the Official Gazette.
- 44ADA applies to an resident assessee who is an individual, Hindu undivided family or partnership firm but not Limited Liability partnership firm whose total gross receipt does not exceed fifty lakh rupees in a previous year. Income is estimated at a sum equal to fifty per cent or more of the total gross receipts.
- The assessee will be deemed to have been allowed the deductions under section 30 to 38.
- Assessee will not be required to maintain books of account under section 44AA(1) and get the accounts audited under section 44AB in respect of such income unless the assessee claims that the profits and gains from the aforesaid profession are lower than the profits and gains deemed to be his income section 44ADA(1) and his income exceeds the maximum amount which is not chargeable to income-tax.
- These amendments will take effect from 1st April, 2017 and will, accordingly, apply in relation to the assessment year 2017-18 and subsequent years.

# Presumptive taxation

## *Increase in threshold limit for presumptive taxation scheme for persons having income from business.*

- Sec 44AD: The threshold limit of one crore rupees specified in the definition of "eligible business" is increased to two crore rupees.
- The expenditure in the nature of salary, remuneration, interest etc. paid to the partner as per clause (b) of section 40 shall not be deductible while computing the income under section 44AD .
- Where an eligible assessee declares profit for any previous year in accordance with the provisions of this section and he declares profit for any of the five consecutive previous year succeeding such previous year not in accordance with the provisions of sub-section (1), he shall not be eligible to claim the benefit of the provisions of this section for five previous years subsequent to the previous year in which the profit has not been declared in accordance with the provisions of sub-section (1).
- The assessee opting for this shall be required to pay advance tax by 15th March of the financial year.
- These amendments will take effect from 1st April, 2017 and will, accordingly, apply in relation to the assessment year 2017-18 and subsequent years.

# Tax Audit Limit in case of Profession

## *Increase in threshold limit for audit for persons having income from profession*

- Under existing provision any person carrying on profession shall get his books of accounts audited if his gross receipt from profession exceeds twenty-five lakh rupees.
- Section 44AB is amended to increase the threshold limit of total gross receipts for profession from twenty five lakh rupees to fifty lakh rupees .
- These amendments will take effect from 1st April, 2017 and will, accordingly, apply to the assessment year 2017-18 and subsequent assessment years .

# Provision for bad and doubtful debts

## *Deduction in respect of provision for bad and doubtful debt in the case of Non-Banking Financial companies.*

- Section 36(1)(viia) is amended to provide deduction from total income (computed before making any deduction under this clause and Chapter-VIA) on account of provision for bad and doubtful debts to the extent of five per cent of the total income in the case of NBFCs.
- ***Amendment*** (w.e.f. 1<sup>st</sup> April, 2017 i.e. AY 2017-18 onwards)

# Investment in new Plant & Machinery

## *Rationalisation of scope of tax incentive under section 32AC*

- Section 32AC sub-section (1A) of the Act provides for investment allowance at the rate of 15% on investment made in new assets (plant and machinery) exceeding Rs.25 crore in a previous year by a company engaged in manufacturing or production of any article or thing.
- Installation of the plant & machinery acquired has to be made before 31.03.2017 in order to avail the benefit of investment allowance of 15%.The deduction under this sub-section shall be allowed in the year in which the new asset is installed.
- Earlier there was a condition that the asset acquired has to be installed in the same year of acquisition for claiming investment allowance
- These amendments will take effect retrospectively from 1stApril, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and 2017-18.

# Ease of doing Business/dispute resolution

## *Exemption from requirement of furnishing PAN under section 206AA to certain non-resident.*

- The provisions of section 206AA shall not apply to a non-resident, not being a company, or to a foreign company, in respect of any other payment, other than interest on bonds, subject to such conditions as may be prescribed.
- This amendment will take effect from 1st June, 2016.

## *Applicability of Minimum Alternate Tax (MAT) on foreign companies for the period prior to 01.04.2015*

- The provisions of section 115JB shall not be applicable to a foreign company if –
  - The assessee is a resident of a country or a specified territory with which India has an agreement referred to in sub-section (1) of section 90 or the Central Government has adopted any agreement under sub-section (1) of section 90A and the assessee does not have a permanent establishment in India in accordance with the provisions of such Agreement; or
  - the assessee is a resident of a country with which India does not have an agreement of the nature referred to in clause (i) above and the assessee is not required to seek registration under any law for the time being in force relating to companies.
- This amendment is proposed to be made effective retrospectively from the 1st day of April, 2001 and shall accordingly apply in relation to assessment year 2001-02 and subsequent years.



# International Financial Services Centre

## *Tax Incentives to International Financial Services Centre*

- Section 115-O is amended to provide that no tax on distributed profits shall be chargeable in respect of the total income of a company being a unit located in International Financial Services Centre, deriving income solely in convertible foreign exchange, for any assessment year on any amount declared, distributed or paid by such company, by way of dividends (whether interim or otherwise) on or after the 1st day of April, 2017 out of its current income, either in the hands of the company or the person receiving such dividend.
- Section 113A of the Finance (No.2) Act, 2004 is amended so as to provide that the provisions of Chapter VII shall not apply to taxable securities transactions entered into by any person on a recognized stock exchange located in International Financial Services Centre where the consideration for such transaction is paid or payable in foreign currency, thereby exempting such transaction from securities transaction tax.
- Further, section 132A is inserted in Chapter VII of the Finance Act, 2013 so as to provide that the provisions of chapter VII shall also not apply to taxable commodities transactions entered into by any person on a recognized association located in unit of International Financial Services Centre where the consideration for such transaction is paid or payable in foreign currency, thereby exempting such transaction from commodities transaction tax.
- The above two amendments will take effect from 1st June, 2016

# The Income Declaration Scheme, 2016

## *The Income Declaration Scheme, 2016*

- An opportunity is proposed to be provided to persons who have not paid full taxes in the past to come forward and declare the undisclosed income and pay tax, surcharge and penalty totalling in all to **45 percent** of such undisclosed income declared.
- Tax is proposed to be charged at the rate of **30 per cent** on the declared income as increased by **surcharge** at the rate of **25 per cent** of tax payable (to be called the Krishi Kalyan cess). A penalty at the rate of **25 per cent** of tax payable is also proposed to be levied on undisclosed income declared under the scheme.
- The scheme is proposed to be brought into effect from **1st June 2016** in respect of undisclosed income of any financial year upto **2015-16** and will remain open up to the date to be notified by the Central Government in the official gazette.
- The declarations which are made under the scheme shall be exempt from wealth-tax in respect of assets specified in declaration.
- It is also proposed that no scrutiny and enquiry under the Income-tax Act and Wealth-tax Act be undertaken in respect of such declarations and immunity from prosecution under such Acts be provided. Immunity from the Benami Transactions (Prohibition) Act, 1988 is also proposed for such declarations subject to certain conditions.

# The Income Declaration Scheme, 2016

## *The Income Declaration Scheme, 2016*

- The It is proposed that following cases shall not be eligible for the scheme:
  - where notices have been issued under section 142(1) or 143(2) or 148 or 153A or 153C, or
  - where a search or survey has been conducted and the time for issuance of notice under the relevant provisions of the Act has not expired, or
  - where information is received under an agreement with foreign countries regarding such income,
  - cases covered under the Black Money Act, 2015, or
  - persons notified under Special Court Act, 1992, or
  - cases covered under Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Unlawful
  - Activities (Prevention) Act, 1967, the Prevention of Corruption Act, 1988.

# The Direct Tax Dispute Resolution Scheme, 2016

## *The Direct Tax Dispute Resolution Scheme, 2016*

- In order to reduce the huge backlog of cases and to enable the Government to realise its dues expeditiously, it is proposed to bring the **Direct Tax Dispute Resolution Scheme, 2016** in relation to tax arrear and specified tax. The salient features of the proposed scheme are as under -
  - The scheme be applicable to "tax arrear" which is defined as the amount of tax, interest or penalty determined under the Income-tax Act or the Wealth-tax Act, 1957 in respect of which appeal is pending before the Commissioner of Income-tax (Appeals) or the Commissioner of Wealth-tax (Appeals) as on the 29th day of February, 2016.
  - The pending appeal could be against an assessment order or a penalty order.
  - The declarant under the scheme be required to pay tax at the applicable rate plus interest upto the date of assessment. However, in case of disputed tax exceeding rupees ten lakh, twenty-five percent of the minimum penalty leviable shall also be required to be paid.
  - In case of pending appeal against a penalty order, twenty-five percent of minimum penalty leviable shall be payable alongwith the tax and interest payable on account of assessment or reassessment.
  - Consequent to such declaration, appeal in respect of the disputed income and disputed wealth pending before the Commissioner (Appeals) shall be deemed to be withdrawn.

# The Direct Tax Dispute Resolution Scheme, 2016

## *The Direct Tax Dispute Resolution Scheme, 2016*

- The declarant under the scheme shall get immunity from institution of any proceeding for prosecution for any offence under the Income-tax Act or the Wealth-tax Act. In case of specified tax the declarant shall also get immunity from imposition of penalty under the Income-tax Act or the Wealth-tax Act.
- In the following cases a person shall not be eligible for the scheme -
  - The Cases where prosecution has been initiated before 29.02.2016.
  - Search or survey cases where the declaration is in respect of tax arrears.
  - Cases relating to undisclosed foreign income and assets.
  - Cases based on information received under Double Taxation Avoidance Agreement under section 90 or 90A of the
  - Income-tax Act where the declaration is in respect of tax arrears.
  - Person notified under Special Courts Act, 1992.
  - Cases covered under Narcotic Drugs and Psychotropic Substances Act, Indian Penal Code, Prevention of Corruption
  - Act or Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974.

# Base Erosion and Profit Shifting (“BEPS”)

## *BEPS action plan - Country-By-Country Report and Master file*

- Indian transfer pricing provisions are proposed to be amended to incorporate BEPS recommendations. BEPS Action Plans recommend that the countries should adopt a standardized approach to transfer pricing documentation.
- In line with the above recommendations, a new section 286 is proposed to be inserted under the Act requiring maintenance and furnishing of the CbC report by multinational enterprises (MNE's) having prescribed annual consolidated revenues.
- It is recommended in the BEPS report that the countries should adopt a standardised approach to transfer pricing documentation. A three-tiered structure has been mandated consisting of:-
  - i. The a **master file** containing standardised information relevant for all multinational enterprises (MNE) group members;
  - ii. a **local file** referring specifically to material transactions of the local taxpayer; and
  - iii. a **country-by-country report** containing certain information relating to the global allocation of the MNE's income and taxes paid together with certain indicators of the location of economic activity within the MNE group.

# Base Erosion and Profit Shifting (“BEPS”)

## *BEPS action plan - Country-By-Country Report and Master file*

- The CbC reporting will apply if the consolidated revenues of the preceding year of the group, based on consolidated financial statement, exceeds a threshold to be prescribed.
- The current international consensus is for a threshold of € 750 million equivalent in local currency. This threshold in Indian currency would be equivalent to **Rs. 5395 crores** (at current rates).
- Therefore, CbC reporting for an international group having Indian parent, for the previous year 2016-17, shall apply only if the consolidated revenue of the international group in previous year 2015-16 **exceeds Rs. 5395 crore** (the equivalent would be determinable based on exchange rate as on the last day of previous year 2015-16).

## H. Rationalization Measures



# Rationalization of TDS Provisions

## *Increase in threshold limit*

- **Amendment** (w.e.f. 1 June 2016)
- The below table shows the ***increase in threshold limit*** of deduction of tax at source on various payments mentioned in the relevant sections of the Act

Present Section	Heads	Existing Threshold Limit (Rs.)	Proposed Threshold Limit (Rs.)
192A	Payment of accumulated balance due to an employee	30,000	50,000
194BB	Winnings from Horse Race	5,000	10,000
194C	Payments to Contractors	Aggregate annual limit of 75,000	Aggregate annual limit of 100,000
194LA	Payment of Compensation on acquisition of certain Immovable Property	200,000	250,000

# TDS Provisions

## *Rationalization of TDS provisions*

- *Amendment (w.e.f. 1 June 2016)*

Present Section	Heads	Existing Threshold Limit (Rs.)	Proposed Threshold Limit (Rs.)
194D	Insurance Commission	20,000	15,000
194G	Commission on sale of lottery tickets	1,000	15,000
194H	Commission or brokerage	5,000	15,000
194LA	Payment of Compensation on acquisition of certain Immovable Property	200,000	250,000

# Rationalization of TDS Provisions

## *Revision in Rates of TDS*

- **Amendment** (w.e.f. 1 June 2016)
- The below table shows the **Revision in rates** of deduction of tax at source on various payments mentioned in the relevant sections of the Act

Present Section	Heads	Existing Rate of TDS (%)	Proposed Rate of TDS(%)
194DA	Payment in respect of Life Insurance Policy	2%	1%
194EE	Payments in respect of NSS Deposits	20%	10%
194D	Insurance Commission	Rate in force (10%)	5%
194G	Commission on sale of lottery tickets	10%	5%
194H	Commission or brokerage	10%	5%

# Form 15G/Form 15H for rental payments

## *Enabling of Filing of Form 15G/15H for rental payments*

- The existing provisions of section 197A of the Act, provide that tax shall not be deducted, if the recipient of certain payments on which tax is deductible furnishes to the payer a self- declaration in prescribed **Form No. 15G/15H** declaring that the tax on his estimated total income of the relevant previous year would be NIL.
- ***Amendment*** (w.e.f. 1 June 2016)
- The provision of sub-section 194-I of the Act, provides for tax deduction at source (TDS) for payments in the nature of rent beyond a threshold limit of INR 180,000 per financial year.
- It is proposed to amend the provisions of section 197A for making the recipients of payments referred to in section 194-I also eligible for filing self-declaration in Form no 15G/15H for non-deduction of tax at source in accordance with the provisions of section 197A of the Act.

# Spectrum Fee

## *Amortization of spectrum fee for purchase of spectrum*

- Under section 32 of the Act, depreciation is allowed in respect of assets including certain intangible assets. Under section 35ABB of the Act, amortisation of license fee in case of telecommunication service is provided
- Government has newly introduced spectrum fee for auction of airwaves. There is uncertainty in tax treatment of payments in respect of Spectrum i.e. whether spectrum is an intangible asset and the spectrum fees paid is eligible for depreciation under section 32 of the Act or whether it is in the nature of a 'license to operate telecommunication business' and eligible for deduction under section 35ABB of the Act.
- ***Amendment (w.e.f 1 April 2017 i.e AY 2017-18 onwards)***
- It is proposed to insert a new section 35ABA in the Act to provide for tax treatment of spectrum fee. The section seeks to provide -
  - any capital expenditure incurred and actually paid by an assessee on the acquisition of any right to use spectrum for telecommunication services by paying spectrum fee ***will be allowed as a deduction in equal instalments over the period for which the right to use spectrum remains in force.***

# Spectrum Fee

## *Amortization of spectrum fee for purchase of spectrum*

- any where the spectrum is transferred and proceeds of the transfer are less than the expenditure remaining unallowed, a deduction equal to the expenditure remaining unallowed as reduced by the proceeds of transfer, shall be allowed in the previous year in which the spectrum has been transferred
- if the spectrum is transferred and proceeds of the transfer exceed the amount of expenditure remaining unallowed, the excess amount shall be chargeable to tax as profits and gains of business in the previous year in which the spectrum has been transferred.
- unallowed expenses in a case where a part of the spectrum is transferred would be amortised.
- under the scheme of amalgamation, if the amalgamating company sells or transfer the spectrum to an amalgamated company, being an Indian company, then the provisions of this section will apply to amalgamated company as they would have applied to amalgamating company if later has not transferred the spectrum.

# Non-compete fees and Exclusivity rights

## *Taxation of Non-compete fees and exclusivity rights in case of Profession*

- Section 28 of the Act provides for charging section of profits and gains of business or profession.
- It is proposed to amend section 28(va) of the Act to bring the **non-compete fee** received/receivable (which are recurring in nature) in relation to not carrying out any profession, within the scope of section 28 of the Act
- Further, it is also proposed to amend the proviso to clarify that receipts for transfer of right to carry on any profession, which are chargeable to tax under the head "Capital gains", would not be taxable as profits and gains of business or profession.
- It is also proposed to amend section 55 so as to provide that the 'cost of acquisition' and 'cost of improvement' for working out "Capital gains" on capital receipts arising out of transfer of right to carry on any profession shall also be taken as 'nil'
- ***Amendment*** (w.e.f. 1 April 2017 i.e AY 2017-18 onwards)

# Section 43B – Deductions on Actual Payment

## *Extension of scope of section 43B to include certain payments made to Railways*

- The existing provisions of section 43B of the Act, provides that any sum payable by the assessee by way of tax, cess, duty or fee, employer contribution to Provident Fund, etc., is allowable as deduction of the previous year in which the liability to pay such sum was incurred (relevant previous year) if the same is actually paid on or before the due date of furnishing of the return of income irrespective of method of accounting followed by a person.
- **Amendment** (w.e.f. 1 April 2017 i.e AY 2017-18 onwards)
- With a view to ensure the prompt payment of dues to Railways for use of the Railway assets, it is proposed to amend section 43B so as to expand its scope to include payments made to Indian Railways for use of Railway assets within its ambit.



# Set off of losses

## *Clarification regarding set off losses against deemed undisclosed income*

- Section 115 BBE of the Act, provides that the income relating to section 68 or section 69 or section 69A or section 69B or section 69C or section 69D is taxable at the rate of thirty per cent and further provides that no deduction in respect of any expenditure or allowances in relation to income referred to in the said sections shall be allowable.
- Currently, there is uncertainty on the issue of set-off of losses against income referred in section 115BBE of the Act.
- ***Amendment (w.e.f. 1 April 2017 i.e AY 2017-18 onwards)***
- It is proposed to amend the provisions of the sub-section (2) of section 115BBE to expressly provide that ***no set off of any loss shall be allowable*** in respect of income under the sections 68 or section 69 or section 69A or section 69B or section 69C or section 69D.

# Central Government subsidy/grant/cash assistance etc. towards corpus of fund

*Exemption of Central Government subsidy/grant/cash assistance, etc. towards corpus of fund established for specific purposes from the definition of Income*

- The definition of income under section 2(24) of the Act provides that the income shall include assistance in the form of a subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement (by whatever name called) by the Central Government/State Government or any authority or body or agency in cash or kind to the assessee.
- As a result grant or cash assistance or subsidy etc. provided by the Central Government for budgetary support of a trust or any other entity formed specifically for operationalizing certain government schemes will be taxed in the hands of trust or any other entity.
- **Amendment** (w.e.f. 1 April 2017 i.e AY 2017-18 onwards)
- Therefore, it is proposed to amend section 2(24) of the Act to provide that subsidy or grant by the Central Government for the purpose of the corpus of a trust or institution established by the Central Government or State government shall not form part of income.

# Unlisted Securities

## *Clarification regarding the definition of the term 'unlisted securities' for the purpose of Section 112(1)(c) of the Act*

- The existing provisions of section 112(1)(c) of the Act provide tax rate of ten per cent for long-term capital gain arising from transfer of securities, whether listed or unlisted. The expression "securities" for the purpose of the said provision has the same meaning as in clause (h) of section 2 of the Securities Contracts (Regulations) Act, 1956 (32 of 1956)('SCRA'). A view has been taken by the courts that shares of a private company are not "securities".
- ***Amendment*** (w.e.f. 1 April 2017 i.e AY 2017-18 onwards)
- Therefore, it is it is proposed to amend the provisions of section 112(1)(c) of the Act to provide that long-term capital gains arising from the transfer of a capital asset being shares of a company not being a company in which the public are substantially interested, shall be chargeable to tax at the rate of 10 per cent.

# Stamp valuation in case of section 50C

## *Rationalization of Section 50C in case sale consideration is fixed under agreement executed prior to the date of registration of immovable property*

- Under the existing provisions contained in section 50C of the Act, in case of transfer of a capital asset being land or building on both, the value adopted or assessed by the stamp valuation authority for the purpose of payment of stamp duty shall be taken as the full value of consideration for the purposes of computation of capital gains. **This provision does not provide any relief where the seller has entered into an agreement to sell the property much before the actual date of transfer of the immovable property and the sale consideration is fixed in such agreement.**
- ***Amendment (w.e.f. 1 April 2017 i.e. AY 2017-18 onwards)***
- It is proposed to amend the provisions of section 50C so as to provide that where the date of the agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of the agreement may be taken for the purposes of computing the full value of consideration.
- It is further proposed to provide that this provision shall apply only in a case where the amount of consideration referred to therein, or a part thereof, has been paid by way of an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account, on or before the date of the agreement for the transfer of such immovable property.

# Stamp valuation in case of section 50C

## *Rationalization of Section 50C in case sale consideration is fixed under agreement executed prior to the date of registration of immovable property*

- Under the existing provisions contained in section 50C of the Act, in case of transfer of a capital asset being land or building on both, the value adopted or assessed by the stamp valuation authority for the purpose of payment of stamp duty shall be taken as the full value of consideration for the purposes of computation of capital gains. **This provision does not provide any relief where the seller has entered into an agreement to sell the property much before the actual date of transfer of the immovable property and the sale consideration is fixed in such agreement.**
- ***Amendment (w.e.f. 1 April 2017 i.e. AY 2017-18 onwards)***
- It is proposed to amend the provisions of section 50C so as to provide that where the date of the agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of the agreement may be taken for the purposes of computing the full value of consideration.
- It is further proposed to provide that this provision shall apply only in a case where the amount of consideration referred to therein, or a part thereof, has been paid by way of an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account, on or before the date of the agreement for the transfer of such immovable property.

# Conversion of Company into LLP

## *Rationalization of conversion of a company into Limited Liability Partnership (LLP)*

- The existing provisions of section 47(xiiib) of the Act provides that conversion of a private limited or unlisted public company into LLP shall not be regarded as transfer, if certain conditions are fulfilled, which, inter alia, include a condition that the company's gross receipts, turnover or total sales in any of the preceding three years did not exceed Rs.60 lakhs.
- ***Amendment*** (w.e.f .1 April 2017 i.e. AY 2017-18 onwards)
- It is proposed to amend the said section so as to provide that, for availing tax-neutral conversion, in addition to the existing conditions, the value of the total assets in the books of accounts of the company in any of the three previous years preceding the previous year in which the conversion takes place, should not exceed Rs. five crore.

# Recognised Provident Funds, Pension Funds and National Pension Scheme

## *Rationalisation of tax treatment of Recognised Provident Funds, Pension Funds and National Pension Scheme*

- **Amendment** (w.e.f. 1 April 2017 i.e. AY 2017-18 onwards)
- Presently, any contribution made by the employer to the provident fund account of an employee is not charged to tax if it does not exceed 12% of salary. It is proposed that contribution in excess of 12% of salary or Rs. 1,50,000, whichever is less shall now be charged to tax in the hands of the employees as salary.
- Any amount contributed to superannuation fund by an employer is treated as perquisite in hands of employee and chargeable to tax if the amount of contribution exceeds Rs. 1,00,000. It is proposed to raise the limit of employer's contribution from Rs. 1,00,000 to Rs. 1,50,000.
- Contributions made on or after the 1<sup>st</sup> day of April, 2016 by an employee participating in a **recognised provident fund** and **superannuation fund, up to 40 per cent** of the accumulated balance attributable to such contributions on withdrawal shall be exempt from tax

# Recognised Provident Funds, Pension Funds and National Pension Scheme

## Rationalisation of tax treatment of Recognised Provident Funds, Pension Funds and National Pension Scheme

- **Amendment** (w.e.f. 1 April 2017 i.e. AY 2017-18 onwards)
- Presently, any payment from an approved superannuation fund made to an employee in lieu of or in commutation of an annuity on his retirement at or after a specified age or on his becoming incapacitated prior to such retirement is exempt from tax. It is proposed to amend the provisions of the Act to provide that any payment in commutation of an annuity purchased out of contributions made on or after the 1<sup>st</sup> day of April, 2016, **which exceeds forty per cent of the annuity, shall be chargeable to tax**
- Under the existing provisions of section 80CCD, any payment from National Pension System Trust to an employee on account of closure or his opting out of the pension scheme is chargeable to tax. It is proposed to provide that any payment from National Pension System Trust to an employee on account of closure or his opting out of the pension scheme, to the extent it does not exceed **forty percent of the total amount payable to him** at the time of closure or his opting out of the scheme, **shall be exempt from tax**. However, the whole amount received by the nominee, on death of the assessee shall be exempt from tax.



# Filing of Return of Income

## *Filing of Return of Income*

- **Amendment** (w.e.f .1 April 2017 i.e. AY 2017-18 onwards)
- It is proposed to amend the proviso to section 139(1) of the Act to include that if a person during the previous year earns income arising from long term capital asset which is exempt under 10(38) of the Act and such income exceeds the maximum amount which is not chargeable to tax, then such person shall also be liable to file return of income within the due date.
- As per the existing provisions of section 139(4) of the Act, a person who has not filed return of income within the due date prescribed under section 139(1) of the Act, can file a belated return within one year from the end of the relevant assessment year or before the completion of assessment whichever is earlier.
- It is proposed to substitute section 139(4) of the Act to provide that any person who has not furnished a return within the due date under section 139(1) of the Act, may furnish the return for any previous year **at any time before the end of the relevant assessment year** or before the completion of the assessment, whichever is earlier. Thus the benefit of filing revised return of income within one year from the end of relevant assessment year has been removed.

# Filing of Return of Income

## *Filing of Return of Income*

- **Amendment** (w.e.f .1 April 2017 i.e. AY 2017-18 onwards)
- Section 139(5) of the Act provides for filing of revised return of income. As per section 139(5), any person who has filed return of income within the due date as per section 139(1) can file a revised return of income within one year from the end of relevant assessment year.
- It is proposed to substitute section 139(5) to provide that if any person, having furnished a return within due date under section 139(1) or **filed belatedly under section 139(4)**, or in a return furnished in response to notice issued under sub-section (1) of section 142, discovers any omission or any wrong statement therein, he may furnish a revised return at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.
- Thus as per the Finance Bill 2016, a return which is filed belatedly under section 139(4) can also be revised under section 139(5) of the Act.

# Assessment Proceedings

## *Processing under section 143(1) be mandated before assessment*

- Under the existing provisions of section 143(1D) of the Act, processing of a return is not necessary where a notice has been issued to the assessee for initiation of assessment proceedings under section 142(2) of the Act.
- ***Amendment*** (w.e.f .1 April 2017 i.e. AY 2017-18 onwards)
- It is proposed to amend section 143(1D) of the Act to provide that before making an assessment under section 143(3) of the Act, a return shall be processed under section 143(1) of the Act.

# Assessment Proceedings

## *Processing under section 143(1) be mandated before assessment*

- Under the existing provisions of section 143(1D) of the Act, processing of a return is not necessary where a notice has been issued to the assessee for initiation of assessment proceedings under section 142(2) of the Act.
- **Amendment** (w.e.f .1 April 2017 i.e. AY 2017-18 onwards)
- It is proposed to amend section 143(1D) of the Act to provide that before making an assessment under section 143(3) of the Act, a return shall be processed under section 143(1) of the Act.

# Assessment Proceedings

## *Processing under section 143(1) be mandated before assessment*

- Under the existing provisions of section 143(1D) of the Act, processing of a return is not necessary where a notice has been issued to the assessee for initiation of assessment proceedings under section 142(2) of the Act.
- **Amendment** (w.e.f .1 April 2017 i.e. AY 2017-18 onwards)
- It is proposed to amend section 143(1D) of the Act to provide that before making an assessment under section 143(3) of the Act, a return shall be processed under section 143(1) of the Act.

# Assessment Proceedings

## *Time limit for assessment, reassessment and recomputation*

- ***Amendment (w.e.f .1 June 2016)***
- Following changes have been proposed in existing limit of assessment proceedings -
  - i. Time-limit for completion of assessment under section 143 or section 144 proposed to be reduced from 2 years to 21 months from end of the assessment year in which the income was first assessable.
  - ii. Time-limit for completion of assessment under section 147 has been proposed to be reduced from 1 year to 9 months from end of the financial year in which the notice of reassessment has been served.
  - iii. Time period for giving effect to an order under sections 250 or 254 or 260 or 262 or 263 or 264 or an order of the Settlement Commission under section 245D(4) [where effect can be given wholly or partly otherwise than by making fresh assessment or reassessment] shall be three months from the end of month in which order is received or passed.
  - iv. Assessment, reassessment or recomputation made on assessee to give effect to finding or direction contained in order under section 250, 254, 260, 262, 263, 264 or in an order of any court shall be made on or before the expiry of 12 months from the end of the month in which such order is received.

# Assessment Proceedings

## *Time limit for assessment, reassessment and recomputation*

- **Amendment** (w.e.f .1 June 2016)
- Following changes have been proposed in existing limit of assessment proceedings -
  - v. Assessment initiated on partner of firm in consequence of assessment made on firm under Section 147 shall be proposed to be made on or before expiry of 12 months from end of the month in which assessment order of the firm is passed.
  - vi. It is also proposed to make consequential changes in time-limit for completion of assessment or reassessment by the AO in accordance with the extension of time-limit provided to the TPO in certain cases.
  - vii. It is also proposed to amend the time-limit for completion of assessment made under Section 153A or Section 153C cases to bring it in sync with the new time-limits provided for other cases.

# Assessment Proceedings

## *Time limit for assessment, reassessment and recomputation*

- **Amendment** (w.e.f .1 June 2016)
- Following changes have been proposed in existing limit of assessment proceedings -
  - i. Time-limit for completion of assessment under section 143 or section 144 proposed to be reduced from 2 years to 21 months from end of the assessment year in which the income was first assessable.
  - ii. Time-limit for completion of assessment under section 147 has been proposed to be reduced from 1 year to 9 months from end of the financial year in which the notice of reassessment has been served.
  - iii. Time period for giving effect to an order under sections 250 or 254 or 260 or 262 or 263 or 264 or an order of the Settlement Commission under section 245D(4) [where effect can be given wholly or partly otherwise than by making fresh assessment or reassessment] shall be three months from the end of month in which order is received or passed.
  - iv. Assessment, reassessment or recomputation made on assessee to give effect to finding or direction contained in order under section 250, 254, 260, 262, 263, 264 or in an order of any court shall be made on or before the expiry of 12 months from the end of the month in which such order is received.



# Assessment Proceedings

## *Providing legal framework for automation of various processes and paperless assessment*

- Section 282A(1) of the Act provides that where a notice or other document is required to be issued by any income-tax authority under the Act, such notice or document should be signed by that authority in manuscript.
- **Amendment** (*w.e.f. 1 day of June 2016*)
- It is proposed to amend section 282A(1) of the Act to provide that notices and documents required to be issued by income-tax authority under the Act shall be issued by such authority ***either in paper form or in electronic form*** in accordance with such procedure as may be prescribed.
- In order to ensure timely service of notice issued, it is proposed to amend section 143(2) of the Act to provide that notice under the said sub-section may be served on the assessee by the Assessing Officer or the prescribed income-tax authority, either to attend the office of the Assessing Officer or to produce, or cause to be produced before the Assessing Officer any evidence on which the assessee may rely in support of the return.

# Appellate Tribunal

## *Rationalisation of the provisions relating to Appellate Tribunal*

- The existing provisions of section 254(2) of the Act provide that the Appellate Tribunal may rectify any mistake apparent from its order at any time within four years from the date of the order.
- Currently, Single Bench of the ITAT has the power to dispose off the cases pertaining to an assessee if total income as computed by Assessing Officers does not exceed fifteen lakh rupees
- ***Amendment*** (w.e.f. 1 day of June 2016)
- In order to bring certainty in Tribunal's order, it is proposed that the Appellate Tribunal may rectify any mistake apparent in its order at any time ***within six months*** from the end of the month in which the order was passed.
- In view of the recent increase in monetary limit for filing appeal before the ITAT and to expedite the process of dispute resolution at the level of ITAT, the above limit is proposed to be increased to fifty lakh rupees.

# Advance tax

## *Advance tax*

- Currently, non-corporates taxpayers pay advance tax in three instalments, viz. @30%, 60%, and 100% of tax on or before 15th September, 15<sup>th</sup> December and 15th March of each fiscal year respectively. The Finance Bill, 2016 proposes to treat the non-corporates at par with corporate taxpayers. In other words, non-corporate taxpayers shall be required to pay advance tax in four installments', viz; 15%, 45%, 75% and 100% of tax on or before 15th June, 15th September, 15th December and 15th March respectively.
- ***Amendment (w.e.f .1 day of June 2016)***
- Earlier the taxpayers opting for presumptive taxation scheme under section 44AD were not liable to pay advance tax.
- Further, these taxpayers were not liable for interest under sections 234B and 234C. It is now proposed that such taxpayers shall also pay the advance tax on or before **15th March** of each previous year. Consequently, interest for default and deferment of advance tax under section 234B and section 234C respectively, shall also be levied.

# Refund

## *Payment of interest on refund*

- Section 244A of the Act provides that an assessee is entitled to interest on refund arising out of excess payment of advance tax, tax deducted or collected at source beginning from the 1st April of the assessment year and ending on the date on which refund is granted.
- ***Amendment (w.e.f .1 day of June 2016)***
- In order to ensure filing of return within the due date, it is proposed to amend section 244A of the Act to provide that in cases where the return is filed after the due date, the period for grant of interest on refund may begin from the date of filing of return.
- In the interest of fairness and equity, it is further proposed to provide that an assessee shall be eligible to interest on refund of self-assessment tax for the period beginning from the date of payment of tax or filing of return, whichever is later, to the date on which the refund is granted.
- It is also proposed to provide that where a refund arises out of appeal effect being delayed beyond the time prescribed under the Act, the assessee shall be entitled to receive, in addition to the interest payable under section 244A of the Act, an additional interest on such refund amount calculated at the rate of three per cent per annum, for the period beginning from the date following the date of expiry of the time allowed under the Act to the date on which the refund is granted.

# Penalty provisions

## *Concealment penalty*

- The provisions of section 271 dealing with penalty for failure to comply with notices meant for filing of return of income besides levy of penalty for concealment of income and furnishing of inaccurate particulars of income would stand omitted in totality from 1st day of April, 2017.
- Section 270A proposed to be inserted would replace and apply with regard to penalty for concealment of income. However, the new section uses the expressions such as '**under-reporting and misreporting of income**' instead of the old expression "**concealment of income or furnishing of inaccurate particulars**"
- Quantum of penalty
  - 50% shall be the quantum of penalty calculated on tax payable on underreported income.
  - 200% shall be the quantum of penalty calculated on the tax payable on the misreported income.
- **Amendment** (w.e.f 1 April 2017 i.e. AY 2017-18 onwards)

# Penalty provisions

## *Concealment penalty*

- The instances of ***under-reporting*** of income are as follows –
  - i. the income assessed is more than the income determined in the return processed under section 143(1);
  - ii. when the income assessed is greater than the basic exemption limit
  - iii. where no return of income was furnished;
  - iv. Where the income assessed is greater than the income assessed or reassessed previously;
  - v. The amount of deemed total income as per section 115JB or section 115JC, as the case may be, is greater than the deemed total income determined under section 143(1);
  - vi. The amount of deemed total income assessed as per section 115JB or section 115JC is greater than the maximum amount not chargeable to tax and where no return of income was filed;
  - vii. The total income assessed or reassessed has the effect of reducing the loss or converting such loss into income.

# Penalty provisions

## *Exclusions from Under reported Incomes*

- It is also proposed that the under-reported income under this section shall not include the following cases -
  - i. Where the assessee offers an explanation and the income-tax authority is satisfied that the explanation is bona fide and all the material facts have been disclosed;
  - ii. The income assessed to tax is determined on the basis of estimate though the books of account are correct and complete but the income cannot be properly deduced there from due to the method employed by the taxpayer;
  - iii. Where the assessee himself has estimated a lower amount of addition or disallowance in the computation of income and disclosed all facts material to the addition or disallowance;
  - iv. where the assessee has maintained documents as prescribed under section 92D and declared the international transactions under Chapter X and disclosed all material facts relating to the transaction;
  - v. The undisclosed income is detected on account of search operation and penalty is leviable under section 271AAB.

# Penalty provisions

## *Misreporting of Income*

- The cases of ***misreporting*** of income have been specified as under -
  - i. Misrepresentation or suppression of facts;
  - ii. Non-recording of investment in books of account;
  - iii. Claim of expenditure not substantiated by evidence;
  - iv. Recording of false entry in books of account;
  - v. Failure to record any receipt in books of account which has a bearing on total income.
  - vi. Failure to report any international transaction or deemed international transaction under Chapter X.



# Penalty provisions

## *Immunity*

- ***Amendment*** (w.e.f. 1 April 2017 i.e. AY 2017-18 onwards)
- The Finance Bill, 2016 proposes to insert section 270AA empowering the Assessing Officer to grant immunity from penalty under section 270A (i.e., penalty for under-reporting or misreporting of income)
- However, such immunity shall be subject to following conditions –
  - i. the taxpayer pays the tax and interest payable as per the assessment order;
  - ii. such payment must be within the specified time-limit;
  - iii. he does not prefer an appeal against such assessment order; and
  - iv. he makes an application from the end of the month in which the order or assessment was received in the prescribed form.
- This immunity, however, will not apply to misreporting of income and could be availed only in respect of under-reporting of income.

# Penalty provisions

## *Quantification of total income under-reported*

- The Finance Bill, 2016 gives a mathematical formula for computation of underreported income when the income tax is payable on the deemed total income computed under the provisions of section 115JB or section 115JC.
- The amount of under-reported income = **(A –B) + (C-D)**

A = The total income assessed as per the general provisions of the Act.

B = Total income that would have been chargeable as per the general provisions reduced by the amount of under-reported income.

C = The total income assessed as per the provisions of section 115JB or section 115JC.

D = The total income that would have been chargeable had the total income been assessed as per the provisions of section 115JB or section 115JC as reduced by the amount of under-reported income.

# Penalty provisions

## *Quantification of total income under-reported*

- The Finance Bill, 2016 gives a mathematical formula for computation of underreported income when the income tax is payable on the deemed total income computed under the provisions of section 115JB or section 115JC.
- The amount of under-reported income = **(A –B) + (C-D)**

A = The total income assessed as per the general provisions of the Act.

B = Total income that would have been chargeable as per the general provisions reduced by the amount of under-reported income.

C = The total income assessed as per the provisions of section 115JB or section 115JC.

D = The total income that would have been chargeable had the total income been assessed as per the provisions of section 115JB or section 115JC as reduced by the amount of under-reported income.

# Penalty provisions

## *Quantification of total income under-reported*

- The provisions of section 270A is illustrated as follows –

<b>Particulars</b>	<b>(Figures in Rs. lakh)</b>
Returned total income/(loss)	(-)100
Total Income (loss) determined under section 143(1)(a)	(-)90
Total Income (loss) assessed under section 143(3)	(-)40
Total Income reassessed under section 147	20

- Considering that none of the additions or disallowances made in assessment or reassessment as above qualifies under sub-section (6) of section 270A, the penalty would be calculated as under -

<b>Particulars</b>	<b>Assessment u/s 143(3)</b>	<b>Reassessment u/s 147</b>
Under-reported Income	(-)40 minus (-)90 = 50	20 minus (-)40 = 60
Tax Payable on under-reported Income	30% of 50 = 15	30% of 60 = 18
Penalty Leviable*	50% of 15 = 7.5	50% of 18 = 9

# Penalty provisions

## *Quantification of total income under-reported*

- The Finance Bill, 2016 gives a mathematical formula for computation of underreported income when the income tax is payable on the deemed total income computed under the provisions of section 115JB or section 115JC.

<b><i>Details</i></b>	<b><i>Rs.</i></b>
Total income assessed as per general provisions (A)	1,000,000
Total income that would have been chargeable had the total income been assessed as per the general provision as reduced by under-reported income (B)	800,000
(A-B)	200,000
Total income assessed as per the provisions contained in section 115JB or section 115JC (C)	500,000
Total income that would have been chargeable had the total income assessed as per the provisions contained in section 115JB or section 115JC as reduced by the amount of under reported income (D)	400,000
(C-D)	100,000

# Penalty provisions

## *Quantification of total income under-reported*

<i><b>Details</b></i>	<i><b>Rs.</b></i>
Tax on under-reported income at 30% Rs.3 lakhs	90,000
Penalty for under reported income at 50% of tax	45,000
(A-B)	200,000
Total tax liability including penalty @ 45%	135,000

# Penalty provisions

## *Failure to maintain books of account*

- Currently, a penalty of Rs. 25,000 is levied under Section 271A for failure to maintain books of account as required under section 44AA of the Act. A clarification is proposed that this penalty could also be imposed even if penalty is levied under section 270A on the taxpayer. (i.e., penalty for under-reporting or misreporting of income)

## *Failure to keep documentation for international transaction or specified domestic transaction*

- Currently, penalty for failure to keep and maintain information and documents of international transaction or specified domestic transaction or maintaining or furnishing incorrect information or document is liable for penalty at 2 per cent of the value of each such transaction.
- The Finance Bill, 2016 proposes to dispense with the percentage levy of penalty and proposes penalty of Rs.5 lakhs without any lower or upper limit.

# Penalty provisions

## *Penalty where search has been initiated*

- Existing provisions of section 271AAB(1)(c) of the Act provides that a penalty of a sum which shall not be less than **30 per cent** but which shall not exceed **90 per cent** of the undisclosed income of the specified previous year shall be levied in case where search has been initiated under section 132 on or after the 1st day of July, 2012.
- ***Amendment*** (w.e.f .1 April 2017 i.e. AY 2017-18 onwards)
- In order to rationalise the rate of penalty and reduce discretion it is proposed to amend section 271AAB(1)(c) of the Act to provide for levy of penalty on such undisclosed income at a ***flat rate of 60 per cent of such income.***



# Penalty provisions

## *Penalty for failure in compliance*

- Section 271 which deals with penalty for failure to comply with the notice issued under section 142(1) or section 143(2) or failure to comply with a direction issued under section 142(2A) is proposed to be inapplicable from Assessment Year 2017-18 onwards.
- New Section 270A is proposed to be inserted to deal only with penalty for under-reporting and misreporting of income. It does not deal with the other failures previously dealt with by section 271.
- Therefore, it is proposed to amend section 272A to cover failures such as –
  - i. failure to comply with a notice issued under sections 142(1) or 143(2); and
  - ii. failure to comply with the direction for audit under section 142(2A).
- The penalty imposable would be Rs. 10,000 for each such failure.
- *This amendment will apply w.e.f .1 April 2017 i.e. AY 2017-18 onwards*

# Penalty provisions

## *Power to reduce penalty*

- Presently, section 273A empowers the Principal Commissioner or the Commissioner to use discretion for waiver of penalty imposable on the taxpayer. However, there is no time-limit prescribed for accepting or rejecting the petition for waiver of penalty.
- Hence, it is proposed to provide that the order of granting or rejecting immunity from specified penalty must be passed within a period of 12 months from the end of the month in which the application was received.
- *This amendment will apply w.e.f .1 April 2017 i.e. AY 2017-18 onwards*

# Penalty provisions

## *Immunity from penalty if settlement proceedings stands abated*

- Presently, the proceedings before the Settlement Commission can abate in the circumstances mentioned in section 245HA. The Principal Commissioner or Commissioner may grant immunity from penalty to the taxpayer under section 273AA. However, there is no time-limit within which the application for immunity from penalty is to be decided.
- The Finance Bill, 2016 proposes to amend section 273AA by mandating that the Principal Commissioner or Commissioner must pass an order accepting or rejecting the application of the assessee within a period of 12 months from the end of the month in which such application was received.
- *This amendment will apply w.e.f .1 April 2017 i.e. AY 2017-18 onwards*

# Penalty provisions

## *Amendment of section 272A*

- Existing provision of section 272A(1) of the Act provides for levy of penalty of **Rs. 10,000** for each failure or default to answer the questions raised by an income-tax authority under the Income-tax Act, refusal to sign any statement legally required during the proceedings under the Income-tax Act or failure to attend to give evidence or produce books or documents as required under the Act.
- **Amendment** (w.e.f. 1 April 2017 i.e. AY 2017-18 onwards)
- It is proposed to amend section 272A(1) of the Act to further include levy of penalty of ten thousand rupees **for each default** or failure to comply with a notice issued under section 142(1) or section 143(2) or failure to comply with a direction issued under section 142(2A) of the Act.

## INDIRECT TAX PROPOSALS

# SERVICE TAX

## *Levy of Krishi Kalyan Cess*

- Krishi Kalyan Cess is proposed to be levied at the rate of 0.5% on the value of any or all the taxable services with effect from 01 June 2016 putting the consolidated service tax rate @ 15%.
- Krishi Kalyan Cess paid on input services shall be allowed as Cenvat credit and can be utilised for payment of the proposed Cess on the service provided by the service provider.

# SERVICE TAX

## *Amendments to the Negative List*

- The following are the proposed changes in the Negative List in Section 66D of the Act:
  - Specified educational services are proposed to be omitted from the Negative List but service tax exemption on the said services is being continued by including them in the mega exemption notification. This amendment shall come into effect from the enactment of Finance Bill 2016.
  - Services of transportation of passengers with or without accompanied belongings by a stage carrier is proposed to be omitted from 01 June 2016. However, such services by a non air-conditioned contract carriage will continue to be exempted by way of mega exemption notification. Consequently, air conditioned stage carrier service will be liable to service tax wef 01 June 2016 with an abatement of 60%.
  - Services by way of transport of goods by an aircraft or vessel from a place outside India up to the customs station of clearance in India is proposed to be excluded from the Negative List with effect from 01 June 2016. However such services provided by an aircraft will continue to be exempted by way of mega exemption notification.

# SERVICE TAX

## *Amendments to Mega Exemption Notification*

- Differentiation has been carved out between advocates and senior advocates making services rendered by senior advocates to persons other than person carrying out any activity relating to industry, commerce or any other business or profession, taxable on forward charge basis.
- Constructions and related activities relating to monorail and metro has been made taxable.
- Government works for which exemptions were withdrawn during last budget has been reinstated with respect to agreements entered into prior to 01.03.2015. To fill the gap between the two budgets when the exemption was not there, a retrospective amendment along with refund provision has been brought through the Finance Bill.
- The threshold exemption limit of consideration charged for services provided by a performing artist in folk or classical art forms of music, dance or theatre has been increased from Rs. 1 Lakh to Rs.1.5 Lakhs.
- Services by a stage carriage other than air conditioned stage carrier has been included under the mega exemption notification



# SERVICE TAX

## *Amendments to provisions relating to Valuation of taxable services*

- A uniform abatement at the rate of 70% has been prescribed for services of construction of complex, building, civil structure, or a part thereof subject to the fulfillment of existing conditions.
- An abatement of 60% has been provided on the gross value of renting of motor-cab services, provided no Cenvat credit has been taken. An explanation has been inserted in the Notification No.26/2012-ST that cost of fuel should be included in the consideration charged for providing renting of motor cab services for availing the abatement :
- Services provided by a foreman to a chit fund are proposed to be taxed at an abated value of 70% subject to the condition that Cenvat credit on inputs, input services and capital goods has not been availed.
- With respect to service provided by a tour operator in relation to a tour, the abatement rate has been regularised at 70% except where the the tour operator is providing service solely of arranging or booking accommodation for any person in relation to a tour, abatement of 90% is available.

# SERVICE TAX

## *Amendments to Reverse charge provisions*

- Any services provided by the Government or local authority to business entity fall under the reverse charge mechanism and the business entity is liable to pay service tax under reverse charge wef 01 June 2016.
- Services provided by mutual fund agents/ distributors to an asset management Company has been excluded from the purview of reverse charge mechanism. Accordingly the service provider is liable to pay service tax.

# SERVICE TAX

## *Amendments to Service Tax Rules*

- The benefit of quarterly payment of service tax has been extended to an HUF and 'One Person Company' (OPC) with turnover less than INR 50 lakhs.
- An OPC with turnover less than INR 50 lakhs can opt to pay service tax on receipt basis.
- An annual return has to be filed by every assessee by 30<sup>th</sup> November of the succeeding FY
- The above changes shall come into effect from 01 April 2016.

## *Amendments to Point of Taxation Rules (POTR)*

- Rule 5 of the when a new service comes under the purview of service tax. However, doubts have been raised regarding its applicability in case of new levy. An explanation has been inserted in Rule 5 of POTR stating that the same is applicable in case of new levy of services as well.
- The above change shall come into effect from 01 March 2016.

# SERVICE TAX

## *Amendment to Section 73 of the Act*

- The limitation period for recovery of service tax not levied or paid or short levied or short paid or erroneously refunded , for cases not involving fraud, collusion, suppression etc. is proposed to be enhance from 18 months to 30 months.

## *Amendment to Section 75 of the Act*

- Interest rates on delayed payment of service tax has been rationalized at 15%.
- In case where service tax has been collected but not deposited to the department, the rate of interest will be 24%.
- In case of assesseees, whose value of taxable services in the preceding year/years covered by the notice is less than Rs. 60 Lakh, the rate of interest on delayed payment of service tax will be 12%.

# SERVICE TAX

## *Offences and Arrest*

- The monetary value of offences has been increased from INR 1 crore to INR 2 crores
- Arrest provisions can be invoked only where amount has been collected and not paid

## *Indirect Tax Dispute Resolution Scheme, 2016*

- A new scheme has been introduced namely, Indirect Tax Dispute Resolution Scheme, 2016, wherein the proceedings against the assessee pending before the Commissioner (Appeals) will be closed , on the assessee filing a declaration after payment of duty, interest and 25% of the penalty.
- The assessee will also get immunity from prosecution

## Cenvat Credit

# CENVAT CREDIT

## *Amendment to Cenvat Credit Rules, 2004*

- All capital goods having value up to INR 10,000 per piece have been included in the definition of inputs. This would allow the assessee to take whole credit on such capital goods in the same year in which they are received.
- Credit of office equipments which was denied earlier is now eligible as capital goods.
- Amendments have been brought in to enable availment of credit of goods used for generation of electricity and pumping of water which is done outside the factory.
- Credit of right to use any natural resource can be availed in a proportionate manner and not upfront.
- A manufacturer of the final products is allowed to send inputs or partially processed inputs outside the factory to a job-worker and clearance there from on payment of duty for a financial year. The same would be extended for three financial years.

# CENVAT CREDIT

## *Amendment to Cenvat Credit Rules, 2004*

- Rule 6 of the CCR, which deals with reversal of Cenvat credit in respect of inputs and input services used in the manufacture of exempted goods or for provision of exempted services, has been redrafted as follows:
  - Cenvat credit shall not be allowed on such quantity of inputs and input services used in the manufacture of exempted goods or provision of exempted services
  - A manufacturer who exclusively manufactures exempted goods for their clearance up to the place of removal or a service provider who exclusively provides exempted services shall not be eligible for credit of any inputs or input services used.
  - Exempted service has been defined to include an activity which is not a service. This raises the question of treatment of trading, immovable property transactions, investments, share tradings etc.
  - When a manufacturer manufactures both dutiable and exempted goods or when a service provider provides both taxable and exempted services, he shall either pay an amount equal to 6% on the value of exempted good and 7% on the value of exempted services



# CENVAT CREDIT

## *Amendment to Cenvat Credit Rules, 2004*

- when a manufacturer manufactures both dutiable and exempted goods or when a service provider provides both taxable and exempted services, he shall either pay an amount equal to 6% on the value of exempted goods and seven percent on the value of exempted services subject to a maximum of total credit taken or pay an amount as determined under sub-rule (3A)
- sub-rule (3A) has been amended to provide the procedure and conditions for credit allowed and credit not allowed. Four key steps have been provided for calculating credit reversal under the said sub-rule;
  - No credit on inputs or inputs services used exclusively in the manufacture of exempted goods or provision of exempted services
  - Full credit shall be available with respect to inputs or input services used exclusively in the manufacture of dutiable goods or provision of taxable services
  - Common credit shall be reversed in the ratio of value of exempted goods manufactured or exempted services provided to the turnover of exempted and non exempted goods and exempted and non exempted service in the previous year .
- Credit reversal shall be paid provisionally each month. Year end reconciliation and adjustments should be provided for after the close of financial year by 30<sup>th</sup> June of the succeeding financial year.

# CENVAT CREDIT

## *Amendment to Cenvat Credit Rules, 2004*

- A manufacturer or provider of output service who has failed to follow the procedure prescribed under Rule 6 of the CCR may be allowed by a Central Excise Officer to follow the procedure and pay amount prescribed under the said provisions along with interest at the rate of 15% per annum.
- Existing rule 6 of the CCR would continue to be in operation up to 30 June 2016.
- Sub-rule (3B) has also been amended so as to allow banks and other financial institutions to reverse credit in respect of exempted services on actual basis in addition to the option of 50% reversal.
- Sub-rule (4) has also been amended to provide that no credit on capital goods be allowed where such capital goods are used for the manufacture of exempted goods or for provision of exempted services for two years from the date of commencement of commercial production of provision of services.

# CENVAT CREDIT

## *Amendment to Cenvat Credit Rules, 2004*

- An Input Service Distributor (ISD) has been allowed to distribute the input service credit to an outsourced manufacturing unit in addition to its own manufacturing unit.
- Outsourced manufacturing unit has been defined to mean either a job worker who is required to pay duty on the value determined as per Rule 10A of the Central Excise Valuation (Determination of Price Of Excisable Goods) Rules, 2000 on the said goods manufactured for an ISD or a manufacturer who manufactures goods under the brand name of the ISD who is required to pay duty on value determined as per provisions of Section 4A of the Central Excise Act, 1944.
- The following conditions have been prescribed under Rule 7 of the CCR with respect to distribution of credit;
  - Credit attributable to a particular unit shall be attributed to that unit only;
  - Credit attributable to more than one unit but not all shall be attributed to those units only and not all the units;
  - Credit attributable to all units shall be attributable to all units.
- A manufacturer of final products or provider of output services is required to file an annual return for each financial year, by the 30<sup>th</sup> November of the succeeding year ;

# CENVAT CREDIT

## *Amendment to Cenvat Credit Rules, 2004*

- Rule 7B has been introduced to provide for distribution of credit on inputs by warehouse of a manufacturer.
- The warehouse is treated as a first stage dealer or second stage dealer for this purpose.
- Necessary amendments have been made to treat the invoice issued by the warehouse as an eligible document under Rule 9 for the purpose of availment of credit.

## *Refund of Cenvat Credit*

- The time limit for filing application for refund of Cenvat credit under Rule 5 of the CCR, in case of export of service, has been prescribed as one year from the date of –
  - receipt of payment in convertible foreign exchange, where provision of service has been completed prior to receipt of such payment; or
  - the date of issue of invoice, where payment for the service has been received in advance prior to the date of issue of the invoice.
- The amendment shall come into effect from 01 March 2016.

## Central Excise

# The Central Excise Act, 1944

## *Major Amendments*

- An assessee is required to file an annual return in addition to monthly returns.
- Section 11A is being amended so as to increase the period of limitation from one year to two years in cases not involving fraud, suppression of facts, willful mis-statement, etc.
- Facility for revision of return has been extended to manufacturers also .
- In case where invoices are digitally signed manual attestation of copy of invoices, meant for transporter is done away with.
- In case of finalisation of provisional assessment interest will be chargeable from the original date of payment of duty.
- A non creditable Infrastructure Cess of upto 4% is being levied on Motor Vehicles.

## Customs

# The Customs Act, 1962

## *Major Amendments*

- The definition of “warehouse” has been amended so as to add a new class of warehouses called special warehouse under physical control of the department for specific goods.
- The definition as well as all provisions relating to “warehouse stations” have been omitted.
- The period of limitation for recovery off dues is being increased from one year to two years in cases not involving fraud, suppression of facts, willful mis-statement, etc.
- Provisions have been introduced to provide for deferred payment of customs duties by certain class of importers and exporters.
- Section 61 is being substituted to extend the period of warehousing to all goods used by Export Oriented Undertakings, Units under Electronic Hardware Technology Parks, Software Technology Parks, Ship Building Yards and other units manufacturing under bond till their clearance while other goods can remain in the warehouse for a period of one year which can be extended by the Principal Commissioners and Commissioners.



# The Customs Act, 1962

## *Major Amendments*

- Provisions relating to control of warehouse goods have been omitted as the conditions for licensing different categories of warehouses and exercising control over the same are being provided under sections 57, 58 and 58A.
- Provisions relating to payment of rent and warehouse charges is being omitted in view of the privatization of services, and free market determination of rates, including those by facilities in the public sector.
- The section providing for owner's right to deal with warehouse goods has been substituted, and the new section permits for only the following:
  - inspect the goods;
  - deal with their containers in such manner as may be necessary to prevent loss or deterioration or damage to the goods;
  - sort the goods; or
  - show the goods for sale.”.

# The Customs Act, 1962

## *Major Amendments*

- The provision with respect to manufacture and other operations in relation to goods in a warehouse has been amended to omit the payment of fees to Customs for supervision of manufacturing facilities under Bond. Further, the present sanctioning authority being Assistant Commissioner of Customs or Deputy Commissioner of Customs, has been substituted by the Principal Commissioner of Customs or Commissioner of Customs.
- On account of omission of the provision dealing with payment of rent and warehouse charges, payment of rent, interest, other charges have been omitted from the conditions for clearance of warehoused goods for home consumption and exportation.
- Improper removal of samples is no longer considered as goods improperly removed from warehouse under Section 72.
- Cancellation and return of warehousing bond is now provided for in case of transfer of ownership of the goods.
- A new section 73A has been inserted so as to provide for custody of warehoused goods and responsibilities including the liabilities of warehouse keepers.



**Thank You**

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